App. F. IX-4

1936-7
(G. S)

File No. 11-36

Serial Nos. 2, 297

Previous References
L. R. 197-35 (1-6)

Letter References
LR 60-40 (1-8)

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.
Two

Part B for Oct 36.

SUBJECT. Report of the Committee on Cooperation in Mysore

D 1909-79 Dt. 29.9.36.

WD 0295—GPB—22,500—18-8-37

G. R. S. APP. F. III—1]

(1)

GENERAL AND REVENUE SECRETARIAT. 5347/36

(Ist)

L.F. 5343/36
708/37
4267
4438

NOTES.

File No. 11-36

FILE HEADING

Report of the Committee on Cooperation in Mysore

FROM

The Registrar of Cooperative Societies in Mysore.

No. 7895 Dated 29/3/37 Received 31-3-37

Diary No. 534 Enclos. Nil Spare copies — Serial No. 83

BRIEF ABSTRACT OF LETTER

Forwards his opinion on the recommendations made by the Committee on Cooperation in Chapter X of their Report

NOTES AND ORDERS.

1) Submitted with reference and a draft G.O for consideration

H.D. 24/5/37

2) Secy (L.S.G.)

3) 1 Issue letter as per rules and forms (Three)? (Done)
2. Make a complete listing of the amendments that are proposed with the numbers placed in each chapter
3. Modifications, if any, which may have to be made in the draft G.O. after the amendments are finalised
4. Please see remarks in Opr note and make necessary & type the draft after finalising the remarks and submit

Notes—First Sheet

WD 0283—GPB—3,750—25-1-38

the matter relating to recommendations of the committee as a whole for my

5347

Report of the Constitution Committee

File No. CS 11 of 1936.

General and Revenue Secretariat

4) It is submitted that orders have been issued in respect of 1 + 3 in Para 3 above. A list of amendments to the Act is being prepared in respect of orders issued on Chapter II, III, IV & IX. After orders are issued on the remaining chapters the list will be made complete with reference to those chapters. The instructions in (4) have been attended to. Submitted with the typed draft G.C as directed

Asst 1277/38

5) Draft Bill on chapter X is submitted for consideration

Sd/- 13.7.38

(I Member)

6) The draft as revised is submitted for approval

Sd/- 5-9-38

(I Member)

7) Attorney

8) The points reserved for consideration should be pursued separately

Sd/- 6-9-38

(Dewan)

Sd/- 6.9.38

Sd/- 7-9-38

Sd/- 9/9

Note 708/37
5343/38
4267/37
4438/37)

1259

OFFICE SECOND MEMBER 13 JULY 1938 No. 1314

OFFICE SECOND MEMBER 6 SEPT. 1938 No. 1694

TYPING SECTION GENL 9 SEP 1938

5041

General and Revenue Secretariat | File No.– of 193 | [App. F. III–2

Serial No.	
	G. O. No D 1909-79/ dated 19-9-38 passing orders on the recommendations in Chapter X of the Report
	Letter No D 3108 dated 30-9-38 to the President of the Committee on Cooperation forwarding copy of the G.O for information

GEN. & REVENUE SECRETARIAT
20 OCT. 1938
DEVELOPMENT BRANCH.

H2
19/10/38

NOTE—Contn. Sheet.

The following are among other suggestions made by the Committee for amending the law relating to execution of decrees in co-operative disputes:-

Sub-section (4) of Section 43-A empowers the Registrar - - - proceedings.

The Land Revenue Code - - - - Societies' dues

The addition to the Co-operative Act. - - - -

Law to make execution more effective in many cases.

These recommendations will be considered separately.

The observations and recommendations of the Committee reproduced below are noted with approval.

(Here copy 1 to 9 as numbered in the Sectt. draft (red pencil)

The Registrar is requested to submit for the consideration of Government drafts of the amendments to be made in the Co-operative Societies Act and of the rules to be issued under it in order to give effect to the decisions contained in this order.

No. 1895 C.S. / Encl 3

GOVERNMENT OF MYSORE

DEPARTMENT OF CO-OPERATION.

31 MAR 1937

DEVELOPMENT BRANCH.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,

Telegraphic Address: "CO-OPERT" BANGALORE

C-S. 11-36-83 *Dated, Bangalore,* 29th March *1937.*

(1) 5347

From

GULAM MOHIYUDDIN MEHKRI, ESQ., B.A., LL.B.,
Registrar of Co-operative Societies in Mysore,
Bangalore.

To

GENERAL SECRETARIAT
30 MAR 1937

V. Vedavyasacharya, Esq., B.A.,
General Secretary to the Government
of Mysore, Bangalore.

Sir, C.S.-11/37

Rem no 4802

In continuation of my letter No.7204/ C.S. dated 4th March 1937, I have the honour to forward, herewith, for orders of Government, my views on the recommendations made by the Mysore Co-operative Enquiry Committee - 1936, in Chapter X of their Report.

I have the honour to be,
Sir,
Your most obedient servant,

M. S. [illegible]
Registrar.

L.S.27/3.

No. of Chapter.	Reference to page of the Report.	Subject matter in brief.	Action taken or proposed to be taken.
1	2	3	4
X.	168-169.	Winding up prior to cancellation of registration. Compulsory liquidation. Notice prior to cancellation or winding up.	The recommendations of the Committee on pages 168-169 of their Report regarding the intermediate stage of winding up prior to actual cancellation of registration, the postponement of liquidation till other remedies have been tried and found ineffective, and the issue of a notice prior to cancellation or winding up are in accordance with the practice that has been followed all along by the Department. The actual cancellation of registration of the society is generally preceded by a winding up process and the cancellation is ordered only after a full adjustment of the accounts. The Committee however further recommend that this procedure should be incorporated in the Regulation and the Rules by changes in Section 39 and 40 of the Regulation and by the formation of a rule under Section 44 of the Regulation. There is no objection to this being done and if Government approve of it, I shall submit the necessary draft amendments.
do.	170	Enforcement of orders of liquidator.	The recommendation of the Committee on page 170 that the orders of the Liquidator in regard to the collection of assets may be

The introduction of an intermediate stage of "winding up" (as in Burma and Bombay), prior to actual cancellation of registration, will remove certain anomalies, allow of a society being revived after its affairs are put in order, and obviate resort to compulsory liquidation.

The power of compulsory liquidation is not preventive, but punitive, and its employment should be postponed as far as possible till milder remedies have been tried and found ineffective. It should only be resorted to when all methods of recovering arrears—persuasive or coercive—are exhausted, and most of the outstanding debts are either bad or irrecoverable.

The Regulation does not require notice to be given before registration is cancelled or winding up is ordered. A rule may be prescribed requiring two months' clear notice to be given to the society specifying the ground of the proposed order.

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The orders of the liquidator in regard to the collection and distribution of assets have at present to be enforced by application to the Civil Court, with its attendant delays and difficulties. Provision may be made (as in Bombay and Madras) for the summary recovery of members' debts under the liquidator's orders through execution by the Revenue Department in the same manner as arrears of land revenue			be enforced through execution by the Revenue Department does certainly simplify and quicken recoveries and I am of opinion that this recommendation may be given effect to. (Vide this office letter No. 7891 dated 29-3-37).

D No. 5343

X. 170-171. Contributions in case of Unlimited liability.

With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy and so leave less discretion to the liquidator.

The proposals of the Committee to lay down by rule that the Liquidator should recover any deficit in the assets of the society to meet its liabilities by levy of per capita contributions from the members to the full extent of their property is certainly equitable equalising as far as possible the sharing of losses by the members, and prevents any abuse of the discretion given to the Liquidator to determine the contributions to be made by the members and ex-members. I recommend that this proposal be accepted. A Circular to this effect has been issued. (vide Copy enclosed). If approved, the draft of necessary amendments to the Rules will be submitted to Government.

do. 171 Agency for liquidation.

The services of suitable non-official gentlemen may be secured on payment of a commission of 5 per cent on realizations; otherwise, one of the Registrar's staff may be utilized.

Regarding agency for liquidation, the best available local non-official gentlemen are now being appointed as liquidators on a commission of 5% on realisations as recommended by the Committee. Where the winding up is simple, and does not involve much extra work, the Circle

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Circle Inspectors are being entrusted with liquidation work. There are now two Official Liquidators appointed for winding up the affairs of the Societies indebted to the Apex and/Central Co-operative Banks, and the appointment of a third Official Liquidator has also been sanctioned by Government to wind up the affairs of societies indebted to the District Central Banks. No further action is necessary at present. When it becomes necessary to appoint a few more official liquidators in the process of consolidation and rectification of bad societies later on, a further reference will be made to Government.

X. 171 & 172. Amendment of provisions regarding liquidation.

The law as contained in section 42 of the Regulation requires to be amended in certain respects.

Section 42 B should be extended to cover cases of apprehended disposal or removal of property after passing of the order and before it is sought to be put in execution.

The Committee next propose certain amendments in the Law relating to liquidation. They desire that the Liquidator should work under the directions of the Registrar, that Section 42, Sub-Section 2(b) should provide for levy of contributions by the estates or nominees, heirs or legal representatives of deceased members as also by any officers or former officers, that the period for which the estate of a deceased member is liable should be extended from one to two years, that the Liquidator should have powers to refer any matters in dispute to arbitration subject to the Registrar's sanction in each case, and that he should have power to call general meet-

ings

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meetings from time to time instead of only at the conclusion of the - liquidation.

I am in full agreement with these recommendations as they facilitate the liquidation proceedings. If approved, drafts of necessary amendments will be submitted to Government.

Extension of Section 42 B to cover cases of apprehended disposal or removal of property after the passing of the order as recommended by the Committee is also very desirable. If approved, the necessary amendment will be proposed.

X. 173. Reference of dispute on default of action by Committee.

To provide for cases in which action to recover debts due is purposely delayed or not taken because the defaulter happens to be the Secretary himself or one of the other committee members or other influential person, the Registrar should have power to require the committee to make a reference within a specified time, and, on its failure to do so, to direct the Inspector or some other person nominated by him to make the reference.

On page 173, the Committee recommends that where the Directors of the Society fail to file disputes against some defaulters, within a specified time, the Inspector or some other person nominated by the Registrar may be enabled to file it. As stated in the Report, it often happens that owing to the defaulter being either the Secretary or some other member of the Committee or an influential person outside the Committee, the Committee are averse to filing a dispute. In such cases, the Registrar should have power to direct the Committee to file a dispute, and in case of failure to do so, to recognize the filing of the suit by the Inspector

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Inspector or any other person nominated by him. This would involve a slight modification of Section 43 A. of the Regulation and necessary draft amendments will be submitted if the recommendation meets with the approval of Government.

X. 173. Honorary Assistant Registrars.

The disposal of disputes would be materially helped if qualified persons were appointed as Honorary Assistant Registrars, at least one for each District and each important headquarter town, where such persons are available. Honorary Assistant Registrars may be given a moderate carriage allowance.

I do not subscribe to the views of the Committee regarding the appointment of Honorary Assistant Registrars, one for each District, for being appointed as Arbitrators for the disposal of Co-operative Disputes. Their appointment has been proposed on the ground that it will help expeditious disposal of disputes. With the proposed increase in the number of Divisions and the number of Assistant Registrars, I should think that they would be quite competent to dispose of all the disputes with little delay and without much detriment to their other work. As it is, there has not been any great delay in the disposal of suits by the Assistant Registrars which work is usually attended to by them along with their inspections and other work and the delay in the disposal now observed is with regard to the disposal of time-barred disputes, which under a Government Order, the Assistant Registrars are incompetent to dispose of themselves and which are to be referred to arbitration, and are held up with them.

Once

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Once the time barred claims are all sued and disposed of, and provided the Law of Limitation with regard to co-operative disputes is amended as next proposed by the Committee, there would be few suits to be referred to arbitration and I believe all the disputes can be easily and expeditiously disposed of by the Assistant Registrars. The Committee have not suggested any other duties for the proposed Honorary Assistant Registrars and as above explained, I do not think that their appointment is necessary or very helpful for the purpose for which it has been proposed by the Committee. Besides the parties would be put to some expense if they have to come to the District or Taluk Head-quarter for the disposal of their disputes.

X. 175. Fee for Arbitrators.

A panel of Arbitrators should be maintained for each District. Arbitrators should be paid, where necessary, a small fee for meeting incidental expenses, which need not exceed annas eight or rupee one per case. In exceptional circumstances, a higher fee may be specially allowed (including actual travelling expenses, if any).

I agree with the Committee that a reasonable fee should be fixed for payment to Arbitrators. Under Government Notification No.D.72/C.S.87-32-5 dated 8/9th July 1935, they are at present given a fee of 4 annas per dispute, the fee being leviable from the society. This fee appears to be small and often times not to cover their actual expenses. As recommended by the Committee, it may be raised to 8 annas per case, and this fee, I am of opinion, should be paid by Government. Court fees much in excess of

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X			of 8 annas per dispute will have been already levied from the societies on the time-barred suits and an additional levy in case of their being referred to arbitration is not justifiable. Travelling allowance limited to the actual cost must also be paid to the Arbitrators. (vide this office letter No. 7892 dated 29.3.37).
X.	175.	Reference to Civil Courts. The Registrar's discretion to refer a dispute to a Civil Court should be freely used where both parties desire it, or where the case involves complicated issues either of law or of adjustment of accounts on which the decision of a judicial tribunal would be desirable.	The Co-operative Committee have recommended that where both parties to a dispute desire it or where it involves complicated issues, the Registrar should freely use his discretion to refer it to the Civil Court. This is the practice that is being followed and no further action is necessary.
do.	175-178.	Limitation in relation to Co-operative disputes - Period to be extended.	On pages 175-178 of the Report, the Committee have discussed the point whether the Law of Limitation should apply to Co-operative Disputes, and have held that it does apply, but recommend that in the case of Co-operative disputes, the usual period of limitation prescribed in the Limitation Regulation should be doubled, excepting for suits on hypothecation or mortgage of immoveable properties. Here, I wish to bring to the notice of Government that at the recent Conference of Registrars held in Delhi on 8th and 9th December 1936, this very subject, viz., whether the

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On the difficult question whether disputes under the Co-operative Societies Regulation are or are not governed by the articles in the Limitation Regulation applicable to suits, the Committee's conclusion is that,—subject to any special provisions in the Co-operative Societies Regulation, like sections 23 and 24,—the articles as to suits in general contained in the Limitation Regulation do apply to disputes.

In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Regulation. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies' Regulation seems reasonable and desirable. The benefit of the increased period, when enacted, should be given to disputes referred within a specified time after the enactment comes into operation.

The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

the Law of Limitation should be made applicable to transactions of co-operative societies and if so whether it was desirable to modify the application of the Law on the lines of the Bihar and Orissa Co-operative Societies Act, was discussed, and it was decided that the question may be taken up again at the next year's Conference as it was an important matter. If the Law of Limitation should be held applicable to co-operative transactions as opined by the Committee, a period of 6 months should be allowed to societies within which they should file all time-barred disputes even under this provision.

The Committee also recommend that when a decision of the Registrar or of an Arbitrator has to be referred to the Civil Court for execution after the close of the infructuous proceedings in the Revenue Department, limitation should only begin to run after the termination of the Revenue proceedings, and upon a formal reference by the Registrar to the Civil Court for execution. This is very necessary. With regard to the proceedings in the Civil Court for grant of possession of properties purchased in sales conducted by Revenue Officers in execution of Co-operative Decrees, the starting point for limitation should be the date of issue of the certificate and

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and not that of confirmation of the sale, since it has been found that very often a long time will have elapsed between the date of confirmation of the sale and the issue of the sale certificate. (vide this office letter No. 7893 dated 29.3.37.).

X. 179. Power to Registrar to recover dues.

The addition to the Mysore Co-operative Societies Regulation of a provision on the lines of section 57A of the Madras Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a civil court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases.

The Committee are in favour of investing the Registrar with powers to recover all sums due under a decision, award or under a civil court decree by attachment and sale of the properties of the judgment-debtor as in Madras under Section 51 A.of the Madras Act. Such a provision may be added to the Mysore Co-operative Societies' Regulation and if this meets with the approval of Government, necessary amendment will be proposed.

do. 179. Power to initiate execution in default of action by Committtte.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

The Committee suggest that where the Committee of a society takes no action to put the decision or award in execution or delays action owing to reluctance to proceed against an influential member or other reasons, the Registrar should take the necessary steps on his own initiative. - Under the existing practice, it is the Registrar that takes the initiative in execution proceedings. After the passing of a decree and when any time granted in the decree for payment has expired, the Registrar

Choice of mode of execution.

Section 43C (i) does not expressly state that the party seeking execution has a choice in the selection of the mode of execution. The point may be made clear.

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Registrar himself forwards it for execution without waiting for the decree-holding society to apply for it. This practice may continue.

X. 181-182. Execution through Revenue Depts and alternatives by the Inspection

On pages 181-182 of the Report, the Committee have considered alternatives for the execution of Co-operative decrees and have finally come to the conclusion that execution may ordinarily remain with the Revenue Department, but that the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work. The Department is in entire agreement with the views of the Committee.

do. 182. Special Recovery Staff.

Later, the Committee suggest the appointment of a special staff of Revenue Inspectors for the execution of Co-operative decrees. In my letter No. 7894 dated 29-3-37, I have submitted a Scheme bearing on this point.

do. 183. Transmission of Decrees.

Much avoidable time is now taken up in the transmission of co-operative decrees through the regular channels to the Revenue Inspector. There is no reason why a decision should not be sent direct from the Co-operative Department to the Amildar of the Taluk where it is to be executed.

The Committee suggest that the decisions, instead of passing through the Deputy Commissioner and the Sub-Division Officer may be sent direct to the Amildar concerned for execution. This procedure though it saves a lot of time and unnecessary correspondence, deprives the Deputy Commissioner of knowing their disposal. I think the present practice may continue for some time

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X	184.	Possession of property sold in execution.	The purchaser of property at a revenue sale in execution of a co-operative decree should be placed on the same level as to obtaining possession, as a purchaser of an occupancy or alienated holding under a sale for land revenue arrears. It will be open to any person claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor to seek redress from the Civil Courts. An alteration of the law on the above lines is very necessary, and may be effected at an early date. should only be made sparingly [illegible] owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

I invite kind reference to correspondence ending with this office Unofficial No.7388/C.S.dated 12th March 1937 to the Chief Secretary to Government.

On page 185 of their Report, the Committee state that where owing to combination or other reason proper bids are not forthcoming and societies have to make their own bids, they should not be compelled to offer more than what they themselves consider reasonable. In this connection, I have to bring to the notice of Government that often times, Revenue Officers have been compelling the decree holding societies to bid to the full - amount of the decree for properties put up by them for sale on the ground that they had been accepted as security for the whole amount. It is - neither legal nor proper. When the secured properties do not realise the full decretal amount, it is open to the decree-holder to seek other remedies for the recovery of the balance. Societies cannot be denied this right. The Revenue Commissioner may be requested to issue instructions to his subordinates, executing Co-operative decrees that the societies should be at liberty to offer any bid they consider fair for properties. If the

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			the final bid offered by the society is considered by them to be too low, it is open to the Revenue authorities not to confirm the sale. A copy of Circular issued to Secretaries of Societies on the subject is enclosed for information.
X.	185.	Attachments after decision.	Under Section 43 A.(4) of the Co-operative Societies' Regulation, the Registrar has now got powers of attachment before judgment. It seems to me an anamoly that the Registrar should not have such powers after a decision has been given in the dispute. This gives an opportunity to judgment-debtors with intent to defraud, to alienate their properties at any time between the date of decision and the date when the Revenue Authorities or a Civil Court execute the decisions. To prevent their defeating the objects of the decision, it is desirable that the Registrar should have powers of attachment even after the passing of the decision. Where the Registrar has attached an immoveable property, he should also be enabled to sell it. This will involve an amendment of the Regulation and draft proposals will be submitted if Government accept the recommendation. -
		Sub-section (4) of section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings. The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.	
do.	185.	Voluntary payments.	The Committee opine that if a judgment-debtor voluntarily deposits the decretal amount subsequent to the initiation of execution proceedings but

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		When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred.	but before any steps are taken, he should not be required to pay the usual percentage contribution towards costs of execution. This is reasonable and this recommendation may be favourably considered.
	X.	186. Attachment of salaries.	The Committee propose that where several decrees against the same Government Official have been sent to the Head of an Office for execution by the attachment of the Official's pay, the Head of the Office should make a rateable distribution towards the several decrees of the permissible amount. At present, all cases for rateable distribution are referred to the Civil Court which first attached the pay of the judgment-debtor. The recommendation of the Committee will enable all creditor-societies to get something towards their dues. The Committee also suggest that even without decrees, where the official has agreed in writing that the monies due from him to any society may be recovered out of his pay, the Heads of Offices should effect such deductions from his pay and remit the same to the society. This is being done in the case of some of the official-societies. I see no objection to the acceptance of both the above recommendations.
		Where there are more decrees than one requiring execution against the same official, the head of the office concerned must be required to make rateable distribution of the permissible amount among all the decrees. Apart from cases where decrees have been obtained, heads of offices may well co-operate in making periodical recoveries from the salaries of employees who have agreed in writing to this mode of discharging loans contracted from societies.	
	do.	186. Prosecutions and Suits.	The Committee recommend that societies or any of their Office-bearers

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		In order to protect office-bearers of societies from unnecessary harassment, the Registrar should be given an opportunity to examine all cases of alleged misconduct on the part of members of managing committees, before criminal prosecutions are launched. Similarly in cases of civil liability, not falling within the definition of a dispute, it must be made obligatory to serve a notice on the Registrar at least two months before filing a suit against a society or its managing committee, so as to give the Registrar sufficient opportunity to look into the matter and save the society from unnecessary litigation.	Offce-bearers should be protected against harassing suits, criminal or civil, by defaulters, by requiring a notice to be served upon the Registrar by such party at least 2 months before filing a suit against such society or its managing committee or any officer thereof. There the suit is of a criminal nature, no such notice to the Registrar seems to be necessary. But in the case of Civil liability, a previous notice to the Registrar would enable him to look into the matter and afford relief to the aggrieved party without the necessity of a suit and thus avoid cost and harassment.

L.S.27/3.

W. S. Registrar. 3/3.

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ಮೈಸೂರು ಗೌರ್ನಮೆಂಟ್ ಕೋ-ಆಪರೇಟಿವ್ ಸೊಸೈಟಿಗಳ ರಿಜಿಸ್ಟ್ರಾರರವರ ಆಫೀಸಿನಿಂದ.

ನಕ್ಯುಲರ್ ನಂ. 19—ಸಿ. ಎಸ್. ತಾರೀಖು 18—19ನೆಯ ಡಿಸೆಂಬರ್ 1934.

ಎಲ್ಲಾ ಕೋ-ಆಪರೇಟಿವ್ ಸೊಸೈಟಿಗಳ ಸೆಕ್ರೆಟರಿಯವರುಗಳಿಗೆ —

ಸೊಸೈಟಿಗಳು ತಮ್ಮ ಬಾಕೀದಾರರುಗಳಿಂದ ಬರಬೇಕಾದ ಸಾಲದ ಪೊಬಲಗುಗಳ ವಸೂಲಾತಿ ಬಗ್ಗೆ ದಾವ ಕ್ರಮನಡಿಸಿ ಡಿಕ್ರಿ ಪಡೆದು ನದರಿ ಡಿಕ್ರಿಗಳನ್ನು ರೆವಿನ್ಯೂ ಅಧಿಕಾರಿಗಳ ಅಥವಾ ಸಿವಿಲ್ ಕೋರ್ಟುಗಳ ಮುಖಾಂತರ ಜಾರಿಕ್ರಮ ನಡಿಸುತ್ತಾ ಇರುವುದು ನರಿಯಪ್ಪೆ. ಇಂಥಾ ಜಾರಿ ಕ್ರಮದಲ್ಲಿ ಬಾಕೀದಾರರ ಸ್ವತ್ತುಗಳನ್ನು ಹರಾಜಿಗೆ ಗುರಿಮಾಡಿದಾಗ, ಡಿಕ್ರಿ ಪೊಬಲಗಿಗಿಂತ ಕಮ್ಮಿಯಾಗಿ ಸೊಸೈಟಿ ಪರವಾಗಿ ಯಾರು ಸವಾಲ್ ಮಾಡಬಾರದೆಂದು ಕೆಲವು ಅಧಿಕಾರಿಗಳು ನಿರ್ಬಂಧಪಡಿಸುತ್ತಾರೆಂದು ನಮ್ಮ ಅವಗಾಹನೆಗೆ ತಂದಿರುತ್ತಾರೆ.. ಈರೀತಿ ನಿರ್ಬಂಧಪಡಿಸುವುದರಿಂದ ಸಂಘಗಳಿಗೆ ತುಂಬಾ ನಷ್ಟವಾಗುವ ಸಂಧರ್ಭಗಳಾಗಿವೆ. ಆದ್ದರಿಂದ ಹರಾಜಿನ ಕಾಲದಲ್ಲಿ ಮತ್ಯಾರಾದರು ಸವಾಲ್‌ದಾರರು ಇಲ್ಲದ ಪಕ್ಷದಲ್ಲಿ ಅಥವಾ ಸ್ವತ್ತುಗಳನ್ನು ಸಂಘಕ್ಕೆ ನಿಲ್ಲಿಸಿಕೊಳ್ಳದೆ ಇದ್ದಲ್ಲಿ, ವಿಶೇಷ ನಷ್ಟವಾಗುವ ಸಂಧರ್ಭಗಳಲ್ಲಿ ಸ್ವತ್ತುಗಳ ಆಗಿನ ಅಂದಾಜಾ ಬೆಲೆಗೆ ಅಥವಾ ಡಿಕ್ರಿ ಪೊಬಲಗಿಗೆ ಇವುಗಳ ಪೈಕಿ ಯಾವುದು ಕಡಿಮೆಯಾಗಿರುತ್ತದೆಯೋ ಆ ಪೊಬಲಗಿಗೆ ಮಾತ್ರ ಆಯಾ ಸೊಸೈಟಿಯಿಂದ ಕ್ರಮವಾಗಿ ಅಧಿಕಾರ ಹೊಂದಿರುವವರು ಸೊಸೈಟಿಯ ಪರವಾಗಿ ಸವಾಲ್ ಮಾಡಬಹುದು. ಅಲ್ಲದೆ ಸಾಧಾರಣವಾಗಿ ಇತರರು ಡಿಕ್ರಿ ಪೊಬಲಗಿಗೆ ಅಥವಾ ಅದಕ್ಕಿಂತ ಹೆಚ್ಚು ಪೊಬಲಗಿಗೆ ಸವಾಲ್ಮಾಡಿದರೆ ಸೊಸೈಟಿಗಳು ಸವಾಲ್ಮಾಡದೆ ಇರುವುದು ಲೇಸು. ಹರಾಜು ಮಾಡುವ ಅಧಿಕಾರಿಗಳು ಸಂಘದವರು ಕೊಡುವ ಸವಾಲನ್ನು ಅಂಗೀಕರಿಸದೆ ಇದ್ದಲ್ಲಿ ಹರಾಜನ್ನು ರದ್ದುಮಾಡಿ ಬೇರೆ ಹರಾಜು ಮಾಡಿನಬಹುದೇ ಹೊರತು ಡಿಕ್ರಿ ಪೊಬಲಗೇನೇ ಸವಾಲ್ ಮಾಡಬೇಕೆಂದು ನಿರ್ಬಂಧಿಸುವುದು ಸರಿಯಲ್ಲವೆಂದು ಇದರಿಂದ ಸೂಚಿಸಿದೆ.

ಎಂ. ಜಿ. ಮೇಕ್ರಿ,
ರಿಜಿಸ್ಟ್ರಾರ್.

Office of the Registrar of Co-operative Societies
in Mysore, Dated Bangalore, 29th March 1937.

CIRCULAR NO. 27.

The attention of all Liquidators of Co-operative Societies is drawn to the recommendation of the Committee on Co-operation in Mysore re: the manner in which contribution is to be made by members and they are requested to see that the deficit is recovered by a series of per capita levies upon the members to the full extent of their property with a view to equalise the burden,

Sd.- M.G.Mehkri,
Registrar.

****
" Copy "

Registrar.

L.S.27/3.

1. Winding up prior to cancellation of registration.

The procedure now adopted in the case of societies whose position is not sufficiently sound is in consonance with the recommendation of the Committee. This procedure may be regularised by being recognised. The Registrar is requested to submit proposals for amending the Regulation in this behalf.

2. Compulsory liquidation.

Noted.

3. Notice prior to cancellation or winding up-

may be done. The Registrar may frame necessary rules.

4. Enforcement [illegible] of liquidator.	accepted. The Registrar may [illegible] to propose amendments to the Regulation for this purpose.
5. Contributions in case of unlimited liability.	It is understood that the Registrar issued instructions. He may propose necessary amendments to the rules.
6. Agency for liquidation.	Noted.
7& 8. Amendment of provisions regarding liquidation. Reference of dispute on default of action by Committee.	The suggestions seem suitable and the Registrar is requested to submit proposals in this behalf.
9. Honorary assistant Registrars.	The appointment of honorary assistant Registrars dealing with disputes is not considered immediately necessary. The suggestion may also be found difficult in working, as a scheme for the appointment of honorary engineers initiated some years ago was found not to work well. Action on this suggestion may be deferred for the present.
10. Fee for arbitrators.	The Report [illegible] taking action on these suggestions
11. Reference to Civil Courts.	[illegible] Where cotton desire that the case should be referred to Civil Court, it may be done as a matter of course.

tem No.	
12 and 13. Limitation in relation to Co-operative putes. iod to be extended.	The Registrar has made certain proposals on the basis of these recommendations and they are being examined.
14. Power to Registrar to recover dues.	The recommendation will be examined.
15. Power to initiate execution in default of action by Committee.	Accepted. It is understood that this is practically what is being done at present.
16. Choice of mode of execution.	At present the party is at liberty to try to execute the decree through Revenue agency and failing there to resort to Civil Court. The Registrar considers it undesirable to restrict the decree holder to only one of the two agencies. The matter may be fully examined and proposals submitted for orders.
17. Execution through Revenue Dept.	Noted.
18. Alternatives considered.	Noted.
19. Special Recovery Staff.	Certain proposals of the Registrar in this matter are before Government and will be examined.
20. Transmission of decree.	The Registrar considers it necessary that the higher officers in the Revenue Department should know the work that is

entrusted to Taluks also. [The Regulation provides for the decrees being sent for execution to the Deputy Commissioner of the District. The Regulation may if necessary be amended so as to permit of the decree being sent to an officer subordinate to the Deputy Commissioner, A statement of decrees so sent to Taluks being forwarded for information to the Deputy Commissioner and the Sub Division Officer concerned.]

21. Contract between Society and Revenue Agency.

Noted.

22. Possession of property sold in execution.

Similar suggestions have been made to Government previously. The matter has been disposed of and certain instructions recently issued. Their working may be watched.

23. Purchase by Societies.

The suggestions are generally acceptable. Instructions in this sense may be issued to societies and to Revenue Officers.

24. Attachments after decision

The recommendation is accepted. The Registrar is requested to submit proposals for amending the Regulation.

25. Do.

The suggestion that the Land Revenue Code should be amended so as to provide for the attachment of immoveable property sought to be proceeded against for the realisation of society's dues.

seems to require examination.

6. Voluntary payments.

It seems to be reasonable in cases where the executing agency has taken absolutely no action and the payment is manifestly quite voluntary, the percentage need not be recovered. The position will be fully examined and separate orders issued.

. Attachment of salaries.

The suggestion that the officer disbursing the salary should make rateable distribution of the amount of the decrees in force may be examined with reference to practice elsewhere.

8. Do.

This is being done.

29. Prosecutions and suits.

Cases of this kind seem to be very rare. Action does not seem to be called for at present.

The Fourth All India Co-operative Conference, B a n g a l o r e.
held on 3rd & 4th July 1937.

Resolutions passed.

1. This Conference resolves to request the Government of India to so amend the Indian Income-Tax Act as to exempt from Income-Tax and Super Tax the incomes derived by co-operative societies from (a) investment of their own reserve funds in Government securities; (b) investment in Government securities for purposes of fluid resource to be maintained on a prescribed scale, under statutory obligation, in force in each province.

2. This Conference does not agree with the view that the provincial Banks will not command confidence of the investing public, by their Boards being largely composed of borrowers. The constitution of Apex Banks is in accordance with sound principles of co-operation and they do command in abundance the confidence of the public.

3. This Conference is of the opinion that the statement made by the Reserve Bank that the margin between the lending rate and the borrowing rate of co-operative Banks is low and the rates should be raised, is not generally correct. The margin of profit depends mainly upon the borrowing rates, lending rates, cost of management, etc.

While conceding that these factors depend upon local conditions and circumstances, this conference places on record its considered opinion that the aim of co-operative societies should be to make credit as cheap as possible and the existing rates of interest should not be raised, except when by local conditions it is considered absolutely necessary.

4. This Conference considers it undesirable to provide any representation to depositors, as such, on boards of Provincial Banks, whether by nomination or other means.

5. This Conference while agreeding with the view that long term credit should be provided only through Land-mortgage Banks is not in favour of the recommendation that loans from Central Banks and societies should be strictly confined to cultivation finance only.

Other necessary forms of short and intermediate credit required by members should also be found in order to prevent them from resorting to money-lenders. Provided however, that the deposits and borrowings of the banks should be so regulated as to permit such loans being granted from those sources.

6. This Conference, whole recognising the necessity of bringing down the level of the debts of members where there is no reasonable prospect of their recovery in full even if long extensions are given, does not consider it desirable that any hard and fast rules should be laid down for all banks and in all areas. With the rise in prices and other favourable conditions the position may change as it has done already in certain areas; and it must be left to the Banks and societies to deal with the problem according to local conditions.

7. This Conference, while agreeing with the proposal that a statutory fixed or agricultural charge upon produce should be created, does not favour any special provision for sending to prison of members who dispose of their produce without repaying the societies.

8. This conference recognises that multiple purpose societies have proved beneficial in certain areas and possess some advantages where they can be successfully set up, and while it is not prepared to recommend it for general adoption, is of opinion that such societies may be tried wherever circumstances permit.

9. This Conference is unable to agree with the view that Central Banks operating over small areas are preferable to larger banks and that large district banks must be split up into small banks

10. This Conference, while it recognises that a pure type of central banking union composed entirely of primary societies and with no individual shareholders has much to commend in it, from a co-operative point of view, it of opinion that such unions are not capable of being developed and efficiently worked in many areas. They were tried and abandoned in some areas. The matter must be left to local co-operative enterprise according to local conditions.

11. This Conference agrees with the view that the practice of making debentures of land mortgage banks redeemable at any time is unsound and that a period should be fixed for the redemption of those debentures; a fund into which collections of principal are pooled should be formed for redeeming debentures and provision should also be made for retiring them by purchase in open market whenever possible.

12. This Conference favours the free and compulsory licensing and registration of all money-lenders, requiring them to maintain regular and standardised accounts and fixing the maximum rates of interest allowable on agricultural loans.

13. Societies for members of depressed classes who are employed in Municipalities and in trades like skins and hides be encouraged and strengthened.

14. This Conference requests the co-operative institutions to popularise the movement among women and enlist them as members in large numbers in all types of societies.

15. Government of every Province and State be requested to give liberal and substantial financial help to the Provincial Co-operative Institutes and Land-mortgage Banks out of the Provincial or State Revenues.

16. This Conference requests the Government to take suitable steps so that co-operative societies holding shares in the Reserve Bank of India should be permitted to nominate by a duly authenticated resolution of the committee any member of the society as a representative to attend and vote at general body meetings of the Reserve Bank.

17. This Conference is of opinion that it is essential that the officer selected for the post of the Registrar should first have undergone special training and have shown by experience

experience his fitness for the work. He should be allowed to visit other Provinces of India as well as Europe to study the co-operative movement there. There should be an officer under training to succeed the Registrar.

18. This Conference requests the Governments to make statutory provision for notice in writing of not less than thirty days being given to a co-operative society before any suit is filed against it.

19. This Conference is of opinion that the recommendation of the Mysore Co-operative Enquiry Committee prohibiting grant of loans to non-member depositors on the security of their deposits is unsound. The Bank must have discretion in granting such loans.

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193* .

Date of issue.....

Signed by .....

Draft Do. is sent for approval

21/9/38

Issued
21/9

TYPING SECTION
22 SEP 1938
GENL & REV. SECTT.

List of enclosures.....

Copied by .....

Examined by.....

Section b.s

File No. 11-36

Serial No.

No. D 3108 Encl.

Dear Sir

I am directed to forward herewith for information a copy of G.O. No D 1909-39/ b.s. 11-36-297 dated 19th Sept 1938 passing orders on the recommendations contained in Chapter X of the Report of the Committee on Cooperation in Madras

Yours faithfully

To Rajaharmahanidhi
Dewan Bahadur
K. S. Chandrasekharan BA BL
Retired Chief Justice
of the Chief Court of Mysore
Bangalore City

D 3108

Encl.1

26th Septr. 8

27

Dear Sir,

I am desired to forward herewith for information a copy of Government Order No.D. 1909-79/C.S. 11-36-297 dated 19th September 1938, passing orders on the recommendations contained in Chapter X of the Report of the Committee on Co-operation in Mysore.

Yours sincerely,

29.4.38

Rajadharmapravina Diwan Bahadur
K.S. Chandrasekhara Aiyar, Esq., B.A., B.L.,
Retired Chief Justice of the Chief Court of
Mysore, Basavangudi, Post, Bangalore City

C.S. 11-36-297 20

Proceedings of the Government of
H.H. the Maharaja of Mysore.

Read:-

The recommendations of the Committee on Co-operation in Mysore in Chapter X of their Report in the matter of Corrective functions of Co-operative Societies.

(Printed as annexure)

2. Letter No.789b dated the 29th March 1937 from the Registrar of Co-operative Societies in Mysore forwarding his opinions on the several recommendations made.

Order No. D. 1909-79/CS.
11-36-297
& 19th September 1938

In Chapter X of the Report entitled "corrective functions", the Committee refer to certain aspects of the policy of "consolidation and rectification" which has been adopted since 1929 in almost all parts of India and make recommendations on questions connected with the dissolution of societies, co-operative litigation, the application of the law of limitation to such disputes and execution of decrees and

Dissolution.

The Committee point out that the power of compulsory liquidation is not preventive bu punitive and that its employment should as far as possible be postponed until milder remedies have been tried and found ineffective. They accordingly recommend that, as in Burma and Bombay, an intermediate stage of "winding up" should be introduced. If, during this stage, the Registrar thinks that the society should continue to exist, he may cancel the order for winding up; otherwise he must, after considering the final report of the Liquidator, order the registration to be cancelled.

Government observe that the Co-operativ Department in Mysore has, as a rule, proceeded with caution in the matter of cancelling the registration of societies and that, in practic a process of winding up is adopted as a preliminary step. It is only when a society is found to be past all hope of rehabilitation that its registration is cancelled. Government, however agree that the procedure indicated should be placed on a legal basis and will take action t amend Sections 39 and 40 of the Act on the lin

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suggested.

The proposal that a rule may be prescribed requiring that before cancelling registration two months' ~~xxx~~ clear notice should be given to a society specifying the grounds of the proposed order is also accepted. It is understood that in practice such notice is invariably given.

Agreeing with the Committee, Government have already decided to amend the Act so as to provide for the Liquidators' orders in regard to recovery of monies being executed by the Revenue Department in the same manner as arrears of land revenue. (Vide G.O. No.D.161-162/C.S.11-36-274 dated 8th July 1938).

The Committee have recommended that the law as contained in Section 42 of the Act require to be amended in the following respects:-

"(a) The Registrar should be empowered to give directions from time to time to the Liquidator after his appointment.

(b) Sub section 2(b) provides only for contributions by "members and past members", and no also (as is necessary and as has been done in th Bombay and Madras Acts) for contributions by "~~T~~the estates or nominees, heirs or legal representatives of deceased members" and also by "any officers or former officers".

(c) The period for which the estate of a deceased member is liable should be extended from one to two years, as in the case of past members

(d) The Liquidator has at present no power to refer any matters in dispute to arbitration. He should be given such power subject to the Registrar's sanction in each case.

(e) The necessity for passing both a prelimina

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and a final decree in the case of mortgage loans should be done away with, and the decree given in the first instance treated as the final "executable decree".

(f) The Liquidator should have power to call general meetings from time to time, instead of only at the conclusion of the liquidation."

" Section 42-B should be extended to cover cases of apprehended disposal or removal of property after the passing of the order and before it is sought to be put in execution."

Government agree that these changes in the law should be carried out if liquidation work is to be speeded up and rendered effective.

Co-operative Litigation.

The Committee recommends that where the Directors of the Society fail to file a disputes against ~~some~~ a defaulters, within a specified time, the Inspector or some other person nominated by the Registrar may be enabled to file it. As stated in the Report, it often happens that owing to the defaulter being either the Secretary or some other member of the Committee or an influential person outside the Committee, the Committee are averse to filing a dispute. In such cases, the Registrar should have power to direct the Committee to file a dispute, and in case of failure to do so, to recognise the filing of the suit by the Inspector or any other person nominated by him. This would involve a slight moditification of Section 43 A.

The Government have considered the question of enhancing the fee paid to Arbitrators from 4 annas to 8 annas per suit and have de-

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decided that the existing rate might be continued for the present.

Law of Limitation.

The Committee have dealt at length with the difficult question whether disputes under the Co-operative Societies Act are governed by the provisions of the law of Limitation applicable to suits and have made important recommendations which have been dealt with separately in consultation with the Judges of the High Court. Action is being taken to amend the law so as to give effect to the recommendations. (Vide G.O.No.D.3633-43/~~XXXX~~ C.S. 11-36-204 dated 13th November 1937).

Execution.

The Committee have referred to the difficulty experienced by creditor societies ~~or~~ and other purchasers in obtaining possession of immovable property sold in execution by revenue authorities and the inadequacy of the remedy provided for the purpose in Section 187 A of the Land Revenue Code. The procedure laid down in this Section applies equally to sale of lands for certain Government and other dues also. The Revenue Commissioner has, at the instance of Government, issued circular instructions to Revenue officers to the effect that attempts should be made by them to put the purchaser society in possession of the properties and that the parties may be referred to Civil Courts only in cases where there is actual obstruction either by the person in possession of properties or others.

The following are among the other suggestions made by the Committee for amending the law relating to execution of decrees in Co-operative disputes.

"Sub-section (4) of section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

The addition to the Mysore Co-operative Societies Regulation of a provision on the lines of section 57A of the Madras Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a civil court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases."

These recommendations will be considered separately.

The observations and recommendations of the Committee reproduced below are noted with approval.

"With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the liquidator.

"To provide for cases in which action to recover debts due is purposely delayed or not taken because the defaulter happens to be the Secretary himself or one of the other committee members or other influential person, the Registrar should have power to require the committee to make a reference within a specified time, and, on its failure to do so, to direct the Inspector or some other person nominated by him to make the reference.

"In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

"Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

"A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

(i) The Secretary of the society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

(ii) It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

(iii) The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

(iv) When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred.

The Registrar is requested to submit for the consideration of Government drafts of the amendments to be made in the Co-operative Societies Act and of the rules to be issued under it in order to give effect to the decisions contained in this order.

5/7/35

Secretary to Government,
L.S.G. Department.

To

The Registrar of Co-operative Societies in Mysore.

The Revenue Commissioner in Mysore.

The Deputy Commissioners of Districts

The Registrar, High Court with covering letter.

The Other Heads of Departments.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. D 1980 encl-1 Bangalore, Dated 19th Sept 1938

From

35

The ~~Chief~~ Secretary to the Government of His Highness the Maharaja of Mysore.
L. S. G. Dept.

To

The Registrar, High Court of Mysore.

Sir,

I am directed to forward herewith for the information of the High Court a copy of Government Proceedings ~~Notification~~ No D. 1909-79/C5. dated 19th September 1938 11-36-297.

I have the honor to be,
Sir,
Your most obedient servant,

Dft) 16/9.

~~Chief~~ Secretary to Government.
L. S. G. Dept.

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App. F. VI, G. 10

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS

P.W.D. no 15/38
dt 26-9-38

G. O. No. D 1909-79/ Gf 11-36-297 DATED 19-9-38

May this be

i. printed ? Yes

ii. treated as a standing order ? Yes

iii. published in the Gazette, English Part ?

iv. translated ?

v. placed at the disposal of the Press ?

} Yes 26/9/38

vi. published in the Gazette, Kannada Part ?

Report of the committee on "cooperation in Mysore"

Passes orders on the recommendations contained in Chapter X of the ———

21/9/38

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

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READ:-

The recommendations of the Committee on Co-operation in Mysore in Chapter X of their Report in the matter of Corrective functions of Co-operative Societies.

(Printed as annexure.)

2. Letter No.7895 dated the 29th March 1937 from the Registrar of Co-operative Societies in Mysore forwarding his opinions on the several recommendations made.

- - - - - -

ORDER NO. D 1909-79/Cs. 11-36-297

Dated, Bangalore, the ~~15~~ 19th September 1938.

In Chapter X of the Report entitled "corrective functions" the Committee refer to certain aspects of the policy of "consolidation and rectification" which has been adopted since 1929 in almost all parts of India and make recommendations on questions connected with dissolution of societies, co-operative litigation, the execution of decrees and the application of the law of limitation to co-operative disputes.

DISSOLUTION.

The Committee point out that the power of compulsory liquidation is not preventive but punitive and that its employment should as far as possible be postponed until milder remedies have been tried and found ineffective. They accordingly recommend that, as in Burma and Bombay, an intermediate stage of "winding up" should be introduced. If, during this stage, the Registrar thinks that the society should continue to exist, he may cancel the order for winding up; otherwise he must, after considering the final report of the Liquidator, order the registration to be cancelled.

Government observe that the Co-operative Department in Mysore has, as a rule, proceeded with caution in the matter of cancelling the registration of societies and that, in practice, a process of winding up is adopted as a preliminary step. It is only when a society is found to be past all hope of rehabilitation that its registration is cancelled. Government, however, agree that the procedure indicated should be placed on a legal basis and will take action to amend Sections 39 and 40 of the Act on the lines suggested.

The proposal that a rule may be prescribed requiring that before cancelling registration, two months' clear notice should be given to a society specifying the grounds of the proposed order is also accepted. It is understood that in practice such notice is invariably given.

Agreeing with the Committee, Government have already decided to amend the Act so as to provide for the Liquidators' orders in regard to recovery of monies being executed by the Revenue Department in the same manner as arrears of land revenue. (Vide Government Order No.D.161-162/C.S.11-36-274 dated 8th July 1938).

The Committee have recommended that the law as contained in Section 42 of the Act requires to be amended in the following respects:-

"(a) The Registrar should be empowered to give directions from time to time to the Liquidator after his appointment.

(b) Sub section 2(b) provides only for contributions by "members and past members", and not also (as is necessary and as has been done in the Bombay and Madras Acts) for contributions by 'the estates or nominees, heirs or legal representatives of deceased members' and also by 'any officers or former officers'.

(c) The period for which the estate of a deceased member is liable should be extended from one to two years, as in the case of past members.

(d) The Liquidator has at present no power to refer any matters in dispute to arbitration. He should be given such power subject to the Registrar's sanction in each case.

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(e) The necessity for passing both a preliminary and a final decree in the case of mortgage loans should be done away with, and the decree given in the first instance treated as the final "executable decree".

(f) The Liquidator should have power to call general meetings from time to time, instead of only at the conclusion of the liquidation.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after the passing of the order and before it is sought to be put in execution."

Government agree that these changes in the law should be carried out if liquidation work is to be speeded up and rendered effective.

CO-OPERATIVE LITIGATION.

The Committee recommends that where the Directors of the Society fail to file a dispute against a defaulter, within a specified time, the Inspector or some other person nominated by the Registrar may be enabled to file it. As stated in the Report, it often happens that owing to the defaulter being either the Secretary or some other member of the Committee, or an influential person outside the Committee, the Committee are averse to filing a dispute. In such cases, the Registrar should have power to direct the Committee to file a dispute, and in case of failure to do so, to recognise the filing of the suit by the Inspector or any other person nominated by him. This would involve a slight modification of Section 43

The Government have considered the question of enhancing the fee paid to Arbitrators from 4 annas to 8 annas per suit and have decided that the existing rate might be continued for the present.

LAW OF LIMITATION.

The Committee have dealt at length with the difficult question whether disputes under the Co-operative Societies Act are governed by the provisions of the law of Limitation appli-

cable to suits and have made important recommendations which have been dealt with separately, in consultation with the Judges of the High Court. Action is being taken to amend the law so as to give effect to the recommendations of the Committee. (Vide Government Order No.D.3633-43/C.S.11-36-204 dated 13th November 1937).

EXECUTION.

The Committee have referred to the difficulty experienced by creditor societies and other purchasers in obtaining possession of immovable property sold in execution by revenue authorities and the inadequacy of the remedy provided for the purpose in Section 187 A of the Land Revenue Code. The procedure laid down in this Section applies equally to sale of lands for certain Government and other dues also. The Revenue Commissioner has, at the instance of Government, issued circular instructions to Revenue Officers to the effect that attempts should be made by them to put the purchaser society in possession of the properties and that the parties may be referred to Civil Courts only in cases where there is actual obstruction either by the person in possession of properties or others.

The following are among the other suggestions made by the Committee for amending the law relating to execution of decrees in Co-operative ~~xxxxxxxx~~ disputes:-

> "Sub-section (4) of section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.
>
> The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

The addition to the Mysore Co-operative Societies Regulation of a provision on the lines of Section 57-A of the Madras Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a civil court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases."

These recommendations will be considered separately.

The observations and recommendations of the Committee reproduced below are noted with approval:-

"With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of per capita levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the liquidator.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

The Secretary of the society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

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It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred."

The Registrar is requested to submit for the consideration of Government drafts of the amendments to be made in the Co-operative Societies Act and of the rules to be issued under it in order to give effect to the decisions contained in this order.

(Sd) P. H. Krishnaraj

Secretary to Government,
Local Self-Government Department.

To

The Registrar of Co-operative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court with covering letter.
The Other Heads of Departments.

Press Copy

S/12.

For Secretary to Government
Local Self Govt Department

Non-official Supervision through local associations.

A scheme of non-official supervision is more likely to succeed if associated with the work of propaganda and advice than if it were based on the idea of superior status and outside control. In order to achieve this object, it is recommended that active steps be taken to form local associations representative of the co-operative societies in every District. If the Provincial Co-operative Institute is reconstituted and placed on an efficient footing, these local associations may well function as branches of the Institute.

Inspection.

It is in the interests of sound management to have the constitution, working and financial condition of societies thoroughly overhauled at regular intervals of not less than five years. It is particularly desirable that a periodical inspection of each Central financing bank should be made by the Registrar.

Precautions against misconduct, etc.

The adoption of various precautionary measures against frauds and irregularities in societies is suggested.

Education and Training.

Any serious attempt at the improvement of co-operative societies must include a proper organization for giving suitable training, as well to the office-bearers of societies, as to the Inspectors, Auditors and Assistant Registrars of the Co-operative Department. The present arrangements for instruction and training are inadequate.

Need for a Central School.

There is a real necessity for the establishment of a Central Co-operative School at Bangalore. Its control must necessarily vest in Government, but may be exercised through the agency of a small Committee nominated by Government and including non-official representatives of the Co-operative movement as well as the heads of the Departments of Finance, Agriculture, Industries and Co-operation. Detailed suggestions are made regarding courses, subjects of study, examinations, appointment of qualified persons, etc. Occasional classes for short periods may be held in District headquarters and in Normal Schools.

Cost.

The cost of the Central Co-operative School and of the occasional classes will have to be met partly (and in the earlier years for the larger part) by a Government grant, and partly by a contribution from societies not exceeding five per cent of their net profits, according to resources.

Teaching of Co-operation.

Co-operation may be dealt with as part of Civics in High Schools, and lessons illustrative of its benefits included in the text books in Middle Schools. The subject should have a more prominent place in the teaching of Economics in Colleges as well as in the University curriculum. Co-operative Law, Finance and Practice should be included among the subjects for Local Service and Pleaders' Examinations, and an examination in that subject made compulsory for certified auditors.

Annexure

CHAPTER X.

CORRECTIVE FUNCTIONS.

Winding up prior to cancellation of registration.

The introduction of an intermediate stage of "winding up" (as in Burma and Bombay), prior to actual cancellation of registration, will remove certain anomalies, allow of a society being revived after its affairs are put in order, and obviate resort to compulsory liquidation.

Compulsory liquidation.

The power of compulsory liquidation is not preventive, but punitive, and its employment should be postponed as far as possible till milder remedies have been tried and found ineffective. It should only be resorted to when all methods of recovering arrears—persuasive or coercive—are exhausted, and most of the outstanding debts are either bad or irrecoverable.

Notice prior to cancellation or winding up.

The Regulation does not require notice to be given before registration is cancelled or winding up is ordered. A rule may be prescribed requiring two months' clear notice to be given to the society specifying the ground of the proposed order.

Enforcement of orders of liquidator.

The orders of the liquidator in regard to the collection and distribution of assets have at present to be enforced by application to the Civil Court, with its attendant delays and difficulties. Provision may be made (as in Bombay and Madras) for the

placed before the general meeting. Central financing institutions should receive free of charge copies of audit reports of all societies indebted to them. They should also have facilities for making such further enquiry as they may consider necessary to safeguard their own financial interests.

Half-yearly Audits.

To avoid delay in departmental audit reports, audit should be divided into two parts, preliminary and final; and societies must be visited for preliminary and final audit at intervals of six months.

In urban societies with large transactions the reports of auditors may with advantage be prepared once every half year and considered at general meetings held every half year. This will also allow of annual meetings being held much earlier than at present.

Audit Agency.

Since the law vests in Government the undivided responsibility for audit, the control of audit as a whole and of the paid staff therefor must be with the Registrar.

The accounts of societies having a working capital of Rs. 5,000 and above should be audited through certified auditors authorized by the Registrar after consultation with the society concerned.

The Registrar should fix the remuneration of the auditors selected on a sliding scale based on the transactions, working capital and net profits of each society. Each auditor will be assigned a certain number of societies. It is desirable that the same person should not audit a society's accounts for more than two years consecutively.

The societies so audited should be required to make contribution towards the cost according to a scale recommended.

Audit on behalf of Societies.

No alteration is required in the arrangement by which a few of the large rural societies are having their accounts audited in detail by competent local auditors and accountants.

Banks and societies must pay the cost of their own separate audits.

Concurrent Internal Audit.

Over and above the audit made by the departmental staff or by an external auditor, every society, large or small, should make arrangments for a continuous daily, or at least weekly, internal audit of the accounts, by the committee or by one or more of its members deputed for the purpose. Where a society can afford it, a separate audit clerk should be appointed, who will work directly under, and be responsible to, the president for the checking and auditing of the accounts of the daily transactions.

Audit Unions.

A scheme for the formation of Audit Unions,—while it may make for uniformity in the system of audit and provide for co-ordination of the closely allied functions of audit and supervision—is not at present practicable in the absence of a strong and efficient co-ordinating Institute at the centre.

Supervision.

The present arrangements for supervision are unsatisfactory and defective, especially in the case of rural societies.

The case of Central and Urban institutions.

The powers of control now vested in the Registrar are sufficient for all practical purposes, and do not require to be amplified. It is in the scope for the exercise of these powers that some discrimination seems to be required. So far as urban societies are concerned, barring gross and exceptional cases of mismanagement or financial breakdown, there should be little occasion for interference on the part of departmental officers beyond the discharge of their ordinary functions of audit and inspection. Any advice required of them will be technical rather than administrative. In fact, in the case of the Central institutions and of the well-established urban banks, interference should be exceptional; and in every case where this is found necessary, a report of the circumstances should invariably be made to Government for information with a copy of any representation submitted by the institution concerned.

The case of Rural Societies.

In the case of rural societies, the supervision that is required has to come largely from departmental officers. But even here, the ultimate aim should be to entrust the work of supervision as far as possible to non-official agency where this is available, preferably to persons chosen by the societies themselves, either individually or in groups or federations.

summary recovery of members' debts under the liquidator's orders through execution by the Revenue Department in the same manner as arrears of land revenue

Contributions in case of unlimited liability.

With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property This will equalize the individual burden at each levy, and so leave less discretion to the liquidator.

Agency for liquidation.

The services of suitable non-official gentlemen may be secured on payment of a commission of 5 per cent on realizations; otherwise, one of the Registrar's staff may be utilized.

Amendment of provisions regarding liquidation.

The law as contained in section 42 of the Regulation requires to be amended in certain respects.

Section 42 B should be extended to cover cases of apprehended disposal or removal of property after passing of the order and before it is sought to be put in execution.

Reference of dispute on default of action by Committee.

To provide for cases in which action to recover debts due is purposely delayed or not taken because the defaulter happens to be the Secretary himself or one of the other committee members or other influential person, the Registrar should have power to require the committee to make a reference within a specified time, and, on its failure to do so, to direct the Inspector or some other person nominated by him to make the reference.

Honorary Assistant Registrars.

The disposal of disputes would be materially helped if qualified persons were appointed as Honorary Assistant Registrars, at least one for each District and each important headquarter town, where such persons are available. Honorary Assistant Registrars may be given a moderate carriage allowance.

Fee for Arbitrators.

A panel of Arbitrators should be maintained for each District. Arbitrators should be paid, where necessary, a small fee for meeting incidental expenses, which need not exceed annas eight or rupee one per case. In exceptional circumstances, a higher fee may be specially allowed (including actual travelling expenses, if any).

Reference to Civil Courts.

The Registrar's discretion to refer a dispute to a Civil Court should be freely used where both parties desire it, or where the case involves complicated issues either of law or of adjustment of accounts on which the decision of a judicial tribunal would be desirable.

Limitation in relation to Co-operative disputes.

On the difficult question whether disputes under the Co-operative Societies Regulation are or are not governed by the articles in the Limitation Regulation applicable to suits, the Committee's conclusion is that,—subject to any special provisions in the Co-operative Societies Regulation, like sections 23 and 24,—the articles as to suits in general contained in the Limitation Regulation do apply to disputes.

Period to be extended.

In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Regulation. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies' Regulation seems reasonable and desirable. The benefit of the increased period, when enacted, should be given to disputes referred within a specified time after the enactment comes into operation.

The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Power to Registrar to recover dues.

The addition to the Mysore Co-operative Societies Regulation of a provision on the lines of section 57A of the Madras

Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a civil court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases.

Power to initiate execution in default of action by Committee.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Choice of mode of execution.

Section 43C (i) does not expressly state that the party seeking execution has a choice in the selection of the mode of execution. The point may be made clear.

Execution through Revenue Department.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

Alternatives considered.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

Special Recovery Staff.

At the same time, the quantity of execution work of all kinds that has to be done seems to justify the immediate employment of a special staff of Revenue Inspectors solely for such work in some, if not all, of the districts. One Special Inspector may be entertained for one or more taluks according to the quantity of the work. It may be eventually necessary to have a specialized agency for each district solely concerned with the recovery of societies' dues and wholly paid out of the fees levied, and to place it under the charge of a Special Officer of the grade of an Amildar.

A scheme for the appointment of Special Recovery Officers, as in Madras and Bombay, may be tried in Mysore, the staff being at first on a temporary basis; if it be found to be self-supporting, as well as permanently useful and effective for its main purpose, the question of its further continuance may be considered in the light of such experience.

Transmission of Decree.

Much avoidable time is now taken up in the transmission of co-operative decrees through the regular channels to the Revenue Inspector. There is no reason why a decision should not be sent direct from the Co-operative Department to the Amildar of the Taluk where it is to be executed.

Contact between Society and Revenue Agency.

The Secretary of the society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

Possession of property sold in execution.

The purchaser of property at a revenue sale in execution of a co-operative decree should be placed on the same level as to obtaining possession, as a purchaser of an occupancy or alienated holding under a sale for land revenue arrears. It will be open to any person claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor to seek redress from the Civil Courts.

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The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under Section 187A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Power to Registrar to recover dues.

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An alteration of the law on the above lines is very necessary, and may be effected at an early date.

Purchase by Societies.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

Attachments after decision.

Sub-section (4) of section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

Voluntary payments.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred.

Attachment of salaries.

Where there are more decrees than one requiring execution against the same official, the head of the office concerned must be required to make rateable distribution of the permissible amount among all the decrees.

Apart from cases where decrees have been obtained, heads of offices may well co-operate in making periodical recoveries from the salaries of employees who have agreed in writing to this mode of discharging loans contracted from societies.

Prosecutions and Suits.

In order to protect office-bearers of societies from unnecessary harassment, the Registrar should be given an opportunity to examine all cases of alleged misconduct on the part of members of managing committees, before criminal prosecutions are launched.

Similarly in cases of civil liability, not falling within the definition of a dispute, it must be made obligatory to serve a notice on the Registrar at least two months before filing a suit against a society or its managing committee, so as to give the Registrar sufficient opportunity to look into the matter and save the society from unnecessary litigation.

CHAPTER XI.

GUIDANCE AND CONTROL.

Ultimate goal.

Subject to the considerations that the ultimate goal is the development of a genuinely co-operative self-contained organization, and that a certain measure of external supervision and control is indispensable for the safety and steady progress of the movement, the aim should be as far as possible to popularise the movement as a whole, and to promote a sense of responsibility among the members of societies. Official control should be slackened wherever possible.

Honorary Agents.

It is desirable to revive the scheme of Honorary Organizers on improved lines as soon as financial conditions will permit.

Provincial Co-operative Institute.

The Mysore Co-operative Institute may be reconstituted on a more satisfactory basis, with well defined objects which will be carried out continuously through the year, and with a sufficiency of funds made up partly by an enhanced Government grant but mainly by contributions from societies in the State according to their working capital or net profits or other recognized basis of computation. The management must be vested in a Board representing all the main types of co-operative activities and interests in the State, and including a few members (not necessarily officials) nominated by Government and connected with important branches of business or industry.

Periodical Conferences.

In addition to the Provincial Co-operative Conference at the Capital, District and Taluk Conferences may also with advantage be held occasionally.

It is desirable that the Registrar should at least once a year arrange for a periodical Conference, attended by selected officials of the Department and by non-officials interested in the working of co-operative bodies, for the discussion of important matters connected with the movement.

Urban institutions should be encouraged and helped to hold special Conferences (either separately or as sections of the Provincial Conference); so also house-building, stores and other special types of societies.

Study.

Both official and honorary workers should be encouraged to study co-operative developments in other parts of the country.

Powers and duties of Registrar.

The Registrar should control the supply of outside loans and keep a watch over the large sums deposited by the public. The maximum borrowings of all classes of societies and the adoption of the ruling rates of interest should be under his general control. The Registrar must remain responsible for the control of audit until the movement is strong enough to arrange for an independent audit system which will command general confidence. The Registrar should have power to revise an award or order of an arbitrator in order to rectify obvious errors resulting in injustice or hardship.

Suggestions are made regarding the qualifications, status and training of officers selected as Registrar, and Deputy and Assistant Registrars.

Superior Controlling Staff.

Having regard to the heavy and growing work of the Registrar's Office, it will be desirable to depute one of the Assistant Registrars exclusively to help the Registrar in that work.

It will be desirable to have a separate branch of the Department, under the Deputy Registrar, to deal with the agricultural, industrial and other non-credit sides of Co-operation, which have not been sufficiently developed, as well as with the Land Mortgage scheme.

As it will not be possible for the remaining officers to look after the district work satisfactorily, it will be necessary to increase their number by two, on the view that about 300 societies form an adequate charge for a Divisional Officer.

There may ordinarily be two grades of Assistant Registrars, one on Rs. 150—25/2—250 (the same as for Amildars), and another on Rs. 250-40/2-450 (as for Assistant Commissioners) promotion to which should be by special selection only. The Deputy Registrar may be given the same grade as a Senior Assistant Commissioner, namely, Rs. 500—50/2—600.

Subordinate Controlling Staff.

Men who are markedly inefficient or have no aptitude for co-operative work should be weeded out by retirement or by transfer to other duties. Recruitment should hereafter be confined to graduates, preferably those who have taken up Economics as their subject, and have had training in Book-keeping and Auditing. Selected candidates must undergo training in Co-operative Law, Finance and Practice. Every Inspector should be able to do audit work as part of his duties.

About 35 to 40 societies is the largest number a single Inspector can efficiently attend to. On this basis, it will be necessary to increase the number of Circle Inspectors from 42 to about 55.

It will be desirable to have, in addition, one Inspector for each Assistant Registrar's charge who will be concerned mainly with liquidation, statutory enquiries, and other special duties entrusted to him.

Inspectors may be in two grades, one on Rs. 40 rising by annual increments of Rs. 5 to Rs. 75; and another rising from Rs. 80 to Rs. 125 by annual increments of Rs. 5. The number of men in each grade should be so fixed as to allow of a fairly free flow of promotion.

The stamp of men at present employed as Supervisors is unsatisfactory. Selections should be made from men who have

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. D. 1909-79—C. S. 11-36-297, dated 19th September 1938.

Report of the Committee on Co-operation in Mysore.

Passes orders on the recommendations contained in Chapter X of the —— .

READ—

The recommendations of the Committee on Co-operation in Mysore in Chapter X of their Report in the matter of corrective functions of Co-operative Societies.

(Printed as annexure.)

2. Letter No. 7895, dated the 29th March 1937, from the Registrar of Co-operative Societies in Mysore, forwarding his opinions on the several recommendations made.

ORDER No. D. 1909-79—C. S. 11-36-297, DATED BANGALORE, THE 19TH SEPTEMBER 1938.

In Chapter X of the Report entitled "corrective functions," the Committee refer to certain aspects of the policy of "consolidation and rectification" which has been adopted since 1929 in almost all parts of India and make recommendations on questions connected with dissolution of societies, co-operative litigation, the execution of decrees and the application of the law of limitation to co-operative disputes.

Dissolution.

The Committee point out that the power of compulsory liquidation is not preventive but punitive and that its employment should, as far as possible, be postponed until milder remedies have been tried and found ineffective. They accordingly recommend that, as in Burma and Bombay, an intermediate stage of "winding up" should be introduced. If, during this stage, the Registrar thinks that the society should continue to exist, he may cancel the order for winding up; otherwise he must, after considering the final report of the Liquidator, order the registration to be cancelled.

Government observe that the Co-operative Department in Mysore has, as a rule, proceeded with caution in the matter of cancelling the registration of societies and that, in practice, a process of winding up is adopted as a preliminary step. It is only when a society is found to be past all hope of rehabilitation that its registration is cancelled. Government, however, agree that the procedure indicated should be placed on a legal basis and will take action to amend Sections 39 and 40 of the Act on the lines suggested.

The proposal that a rule may be prescribed requiring that, before cancelling registration, two months' clear notice should be given to a society specifying the grounds of the proposed order is also accepted. It is understood that in practice such notice is invariably given.

Agreeing with the Committee, Government have already decided to amend the Act so as to provide for the Liquidators' orders in regard to recovery of monies being executed by the Revenue Department in the same manner as arrears of land revenue. (*Vide* Government Order No. D. 161-162—C. S. 11-36-274, dated 8th July 1938.)

The Committee have recommended that the law as contained in Section 42 of the Act requires to be amended in the following respects :—

"(*a*) The Registrar should be empowered to give directions, from time to time, to the Liquidator after his appointment.

(*b*) Sub-section 2 (b) provides only for contributions by "members and past members" and not also (as is necessary and as has been done in the Bombay and Madras Acts) for contributions by "the estates or nominees, heirs or legal representatives of deceased members" and also by "any officers or former officers."

(*c*) The period for which the estate of a deceased member is liable should be extended from one to two years, as in the case of past members.

(*d*) The Liquidator has at present no power to refer any matters in dispute to arbitration. He should be given such power subject to the Registrar's sanction in each case.

(*e*) The necessity for passing both a preliminary and a final decree in the case of mortgage loans should be done away with, and the decree given in the first instance treated as the final "executable decree."

(*f*) The Liquidator should have power to call general meetings from time to time, instead of only at the conclusion of the liquidation.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after the passing of the order and before it is sought to be put in execution."

Government agree that these changes in the law should be carried out if liquidation work is to be speeded up and rendered effective.

Co-operative Litigation.

The Committee recommend that where the Directors of the Society fail to file a dispute against a defaulter, within a specified time, the Inspector or some other person nominated by the Registrar may be enabled to file it. As stated in the Report, it often happens that owing to the defaulter being either the Secretary or some other member of the Committee, or an influential person outside the Committee, the Committee are averse to filing a dispute. In such cases, the Registrar should have power to direct the Committee to file a dispute, and in case of failure to do so, to recognise the filing of the suit by the Inspector or any other person nominated by him. This would involve a slight modification of Section 43-A.

The Government have considered the question of enhancing the fee paid to Arbitrators from 4 annas to 8 annas per suit and have decided that the existing rate might be continued for the present.

Law of Limitation.

The Committee have dealt at length with the difficult question whether disputes under the Co-operative Societies Act are governed by the provisions of the law of Limitation applicable to suits and have made important recommendations which have been dealt with separately, in consultation with the Judges of the High Court. Action is being taken to amend the law so as to give effect to the recommendations of the Committee. (*Vide* Government Order No. D. 3633-43—C. S. 11-36-204, dated 13th November 1937.)

Execution.

The Committee have referred to the difficulty experienced by creditor societies and other purchasers in obtaining possession of immovable property sold in execution by revenue authorities and the inadequacy of the remedy provided for the purpose in Section 187-A of the Land Revenue Code. The procedure laid down in this Section applies equally to sale of lands for certain Government and other dues also. The Revenue Commissioner has, at the instance of Government, issued circular instructions to Revenue Officers to the effect that attempts should be made by them to put the purchaser society in possession of the properties and that the parties may be referred to Civil Courts only in cases where there is actual obstruction either by the person in possession of properties or others.

The following are among the other suggestions made by the Committee for amending the law relating to execution of decrees in Co-operative disputes:—

"Sub-section (4) of Section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

The addition to the Mysore Co-operative Societies Act of a provision on the lines of Section 57-A of the Madras Act, empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person

against whom it has been passed, will be most useful, and tend to make execution more effective in many cases."

These recommendations will be considered separately.

The observations and recommendations of the Committee reproduced below are noted with approval :—

" With a view to prevent abuse or misapplication of the discretion given to the Liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the Liquidator.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

The Secretary of the society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids ; but they should not be compelled to offer more than what they themselves consider reasonable.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred."

The Registrar is requested to submit, for the consideration of Government, drafts of the amendments to be made in the Co-operative Societies Act and of the rules to be issued under it in order to give effect to the decisions contained in this order.

P. H. KRISHNA RAO,
Secretary to Government,
Local Self-Government Department.

To—The Registrar of Co-operative Societies in Mysore.
The Revenue Commissioner in Mysore.
The Deputy Commissioners of Districts.
The Registrar, High Court of Mysore, with covering letter.
The other Heads of Departments.

Exd.—C. K.

No. D. 1909-79—C. S. 11-36-297, DATED 19TH SEPTEMBER 1938.

ANNEXURE.

Winding up prior to cancellation of registration.

The introduction of an intermediate stage of " winding up " (as in Burma and Bombay), prior to actual cancellation of registration, will remove certain anomalies, allow of a society being revived after its affairs are put in order, and obviate resort to compulsory liquidation.

Compulsory liquidation.

The power of compulsory liquidation is not preventive, but punitive, and its employment should be postponed, as far as possible, till milder remedies have been tried and found ineffective. It should only be resorted to when all methods of recovering arrears—persuasive or coercive—are exhausted, and most of the outstanding debts or either bad or irrecoverable.

Notice prior to cancellation or winding up.

The Act does not require notice to be given before registration is cancelled or winding up is ordered. A rule may be prescribed requiring two months' clear notice to be given to the society specifying the ground of the proposed order.

Enforcement of orders of liquidator.

The orders of the liquidator in regard to the collection and distribution of assets have at present to be enforced by application to the Civil Court, with its attendant delays and difficulties. Provision may be made (as in Bombay and Madras) for the summary recovery of members' debts under the liquidator's orders through execution by the Revenue Department in the same manner as arrears of land revenue.

Contributions in case of unlimited liability.

With a view to prevent abuse or misapplication of the discretion given to the liquidator to determine the contributions to be made by members, it is necessary to lay down by rule that any deficit should, after the full payment of shares, be recoverable by a series of *per capita* levies upon the members to the full extent of their property. This will equalize the individual burden at each levy, and so leave less discretion to the liquidator.

Agency for liquidation.

The services of suitable non-official gentlemen may be secured on payment of a commission of 5 per cent on realisations ; otherwise, one of the Registrar's staff may be utilized.

Amendment of provisions regarding liquidation.

The law as contained in Section 42 of the Act requires to be amended in certain respects.

Section 42-B should be extended to cover cases of apprehended disposal or removal of property after passing of the order and before it is sought to be put in execution.

Reference of dispute on default of action by Committee.

To provide for cases in which action to recover debts due is purposely delayed or not taken because the defaulter happens to be the Secretary himself or one of the other committee members or other influential person, the Registrar should have power to require the committee to make a reference within a specified time, and, on its failure to do so, to direct the Inspector or some other person nominated by him to make the reference.

Honorary Assistant Registrars.

The disposal of disputes would be materially helped if qualified persons were appointed as Honorary Assistant Registrars, at least one for each district and each important headquarter town, where such persons are available. Honorary Assistant Registrars may be given a moderate carriage allowance.

Fee for Arbitrators.

A panel of Arbitrators should be maintained for each district. Arbitrators should be paid, where necessary, a small fee for meeting incidental expenses, which need not exceed annas eight or rupee one per case. In exceptional circumstances, a higher fee may be specially allowed (including actual travelling expenses, if any).

Reference to Civil Courts.

The Registrar's discretion to refer a dispute to a Civil Court should be freely used where both parties desire it, or where the case involves complicated issues either of law or of adjustment of accounts on which the decision of a judicial tribunal would be desirable.

No. D. 1909-79—C. S. 11-36-297, dated 19th September 1938.

Limitation in relation to Co-operative disputes.

On the difficult question whether disputes under the Co-operative Societies Act are or are not governed by the articles in the Limitation Act applicable to suits, the Committee's conclusion is that,—subject to any special provisions in the Co-operative Societies Act, like Sections 23 and 24,— the articles as to suits in general contained in the Limitation Act do apply to disputes.

Period to be extended.

In view of the special circumstances applicable, co-operative societies as such should have a longer period of limitation than that ordinarily available, within which to bring up disputes under the Co-operative Societies Act. A general provision doubling the usual period of limitation for suits (other than suits on hypothecation or mortgage) when brought by or on behalf of societies under the Co-operative Societies Act seems reasonable and desirable. The benefit of the increased period, when enacted should be given to disputes referred within a specified time after the enactment comes into operation.

The opportunity may also be taken to make it clear that, when a decision of the Registrar or of an arbitrator has to be referred to the Civil Court after the close of infructuous proceedings in the Revenue Department (as in cases coming under section 187-A of the Mysore Land Revenue Code), limitation should only begin to run after the termination of the Revenue proceedings and upon a formal reference by the Registrar to the Civil Court for execution. The starting point should be the date of issue of the sale certificate, and not that of the confirmation of sale.

Power to Registrar to recover dues.

The addition to the Mysore Co-operative Societies Act of a provision on the lines of section 57-A of the Madras Act empowering the Registrar, without prejudice to any other mode of recovery provided, to recover all sums due under a decision, award or order or under a Civil Court decree, by the attachment and sale of the property of the person against whom it has been passed, will be most useful, and tend to make execution more effective in many cases.

Power to initiate execution in default of action by Committee.

In cases where the managing committee of a society takes no action to put the decision or award in execution, or delays action owing to reluctance to proceed against an influential member or for other reason, the Registrar should take the necessary steps on his own initiative.

Choice of mode of execution.

Section 43-C (i) does not expressly state that the party seeking execution has a choice in the selection of the mode of execution. The point may be made clear.

Execution through Revenue Department.

Better results in the matter of the execution of co-operative decisions through the Revenue Department can only be attained by the exercise of adequate control over the work of the agency (ordinary and special) entrusted with execution work, and by close co-operation between that agency and the committees of the societies which hold the decrees for execution.

Alternatives considered.

A wholesale transfer of the work to the Co-operative Department is not necessary or practicable at the present stage, in view of the large addition to staff and heavy charges of execution that would be entailed. The general transfer of execution work to the Civil Courts is not likely to result in greater expedition or in the reduction of cost to parties. Execution may ordinarily remain with the Revenue Department, but the higher Revenue Officers should interest themselves much more closely and actively in the progress and speeding up of the work.

Special Recovery Staff.

At the same time, the quantity of execution work of all kinds that has to be done seems to justify the immediate employment of a special staff of Revenue Inspectors solely for such work in some, if not all, of the districts. One Special Inspector may be entertained for one or more taluks according to the quantity of the work. It may be eventually necessary to have a specialized agency for each district solely concerned with the recovery of societies' dues and wholly paid, out of the fees levied, and to place it under the charge of a Special Officer of the grade of an Amildar.

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A scheme for the appointment of Special Recovery Officers, as in Madras and Bombay, may be tried in Mysore, the staff being at first on a temporary basis; if it be found to be self-supporting, as well as permanently useful and effective for its main purpose, the question of its further continuance may be considered in the light of such experience.

Transmission of Decree.

Much avoidable time is now taken up in the transmission of co-operative decrees through the regular channels to the Revenue Inspector. There is no reason why a decision should not be sent direct from the Co-operative Department to the Amildar of the taluk where it is to be executed.

Contact between Society and Revenue Agency.

The Secretary of the Society concerned should take the initiative in applying to the Amildar for execution, with all necessary particulars as regards the defaulter and his assets.

It is important that societies should have adequate contact with the proceedings in execution, and that they should invariably be consulted before action affecting their interests is taken, such as the grant of time to the debtor or the cancellation of a sale. The special Revenue Inspectors are expected to give due intimation to societies before taking action. The Secretary of the society should also keep in touch with the Revenue Inspector during the course of execution proceedings.

Possession of property sold in execution.

The purchaser of property at a revenue sale in execution of a co-operative decree should be placed on the same level as to obtaining possession, as a purchaser of an occupancy or alienated holding under a sale for land revenue arrears. It will be open to any person claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor to seek redress from the Civil Courts. An alteration of the law on the above lines is very necessary, and may be effected at an early date.

Purchase by Societies.

The purchase of lands by co-operative societies in execution should only be made sparingly and as a last resort. Where, owing to combination or other reason, proper bids cannot be had, societies may have to make their own bids; but they should not be compelled to offer more than what they themselves consider reasonable.

Attachments after decision.

Sub-section (4) of Section 43-A empowers the Registrar to direct a conditional attachment of property prior to decision. Such a power may advantageously be extended to cases of apprehended alienations by defaulters in the interval between the passing of the decision and the actual initiation of execution proceedings.

The Land Revenue Code should be amended so as to provide for the attachment of immovable property sought to be proceeded against for the realization of societies' dues.

Voluntary payments.

When a judgment-debtor voluntarily deposits the decreed amount subsequent to the initiation of execution proceedings, he need not be required to pay the usual percentage contribution towards costs, in cases where execution has not actually been set on foot and no cost has therefore been incurred.

Attachment of salaries.

Where there are more decrees than one requiring execution against the same official, the head of the office concerned must be required to make rateable distribution of the permissible amount among all the decrees.

Apart from cases where decrees have been obtained, heads of offices may well co-operate in making periodical recoveries from the salaries of employees who have agreed in writing to this mode of discharging loans contracted from societies.

Prosecutions and Suits.

In order to protect office-bearers of societies from unnecessary harassment, the Registrar should be given an opportunity to examine all cases of alleged misconduct on the part of members of managing committees, before criminal prosecutions are launched.

Similarly in cases of civil liability, not falling within the definition of a dispute, it must be made obligatory to serve a notice on the Registrar at least two months before filing a suit against a society or its managing committee, so as to give the Registrar sufficient opportunity to look into the matter and save the society from unnecessary litigation.

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